

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

AMON, J.

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.
MAY 21 2002
BROOKLYN OFFICE

-----X
Michael Siderias,

GO, M.J.

COMPLAINT

Plaintiff,

- against -

CV 02 3016
Civil Action No:

The City of New York and New York City
Police Officers John Doe "1" thru "4",

Defendants.

JURY TRIAL DEMANDED

-----X
The Plaintiff Michael Siderias, by his attorneys Schwartz & Associates,
P.C., complaining of the Defendants The City of New York and New York City
Police Officers John Doe "1" thru "4", respectfully shows to this Court and alleges:

JURISDICTION

1. That jurisdiction is founded upon the existence of a federal question.
2. That this is an action to redress the deprivation under the color of a

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statute, ordinance, regulation, custom or usage of a right, privilege and immunity secured to the Plaintiff under the First and Fourteenth Amendments to the Constitution of the United States (42 U.S.C. 1983) and arising under the laws and statutes of the State of New York.

3. That jurisdiction is founded upon U.S.C. Section 1331 and 1343 (3) and (4), this being an action authorized by law to redress the deprivation under the color of a statute, ordinance, regulation, custom and usage of a right, privilege and immunity secured to the Plaintiff by the First and Fourteenth Amendments to the Constitution of the United States.

4. That the matter in controversy exceeds, exclusive of interest and costs, the sum or value of Fifty Thousand (\$ 50,000.00) Dollars.

THE PARTIES

5. That the Plaintiff is a citizen of the United States and he is a resident of the City and State of New York, County of Kings.

6. That the Defendant The City of New York was and still is a municipal corporation duly organized and existing under and by virtue of the laws of the State of New York.

7. That the Defendant The City of New York, its agents, servants and employees operated, maintained and controlled the Police Department of the City of New York, including all the Police Officers thereof.

8. That on and prior to February 2nd, 2002, Defendant Police Officers John Doe "1" thru "4" were employed by the Defendant The City of New York as Police Officers.

9. That this action arises under the United States Constitution, particularly under the provisions of the Fourth and Fourteenth Amendments to the Constitution of the United States and under federal law, particularly the Civil Rights Act, Title 42 of the United States Code, Section 1983 and the rights under the Constitution and laws of the State of New York.

10. That each and all of the acts of the Defendants alleged herein were done by the Defendants, their agents, servants and employees, and each of them, not as individuals, but under the color and pretense of the statutes, ordinances, regulations, customs and usages of the State of New York, the City of New York and the County of New York and under the authority of their office as Police Officers of this State, City and County.

PENDANT STATE CLAIMS

11. That Notice of Plaintiff's Notice of Intention to Sue for Damages, the nature of the claims and the dates of, the time when, the place where and the manner in which the claim arose was duly served upon the Comptroller of the Defendant The City of New York on February 28th, 2002.

12. That the Defendants have not conducted a hearing of the Plaintiff pursuant to Section 50 (h) of the General Municipal Law of the State of New York.

13. That more than Thirty (30) days has elapsed since the Notice of Claim and Intention to Sue was served upon the Defendants and that said Defendants have neglected and/or refused to make any adjustment or payment thereof.

14. That this action is commenced within one (1) year and ninety (90) days after the causes of action arose.

FIRST CAUSE OF ACTION

15. The Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs "1" through "14" with the same full force and effect as if same were more fully set forth at length herein.

16. That on or about February 2nd, 2002 at approximately 12:00 - 1:30 A.M., while said Plaintiff was lawfully on the premises of the Mirage Diner located at 717 Kings Highway, Brooklyn, New York was stopped by the Defendant The City of New York, their agents, servants and employees, and more particularly Defendant Police Officers John Doe "1" thru "4" without just cause, provocation or con-

sent of the Plaintiff and with great force and violence, repeatedly assaulted and battered said Plaintiff, including but not limited to intentionally, forcefully and fiercely striking the Plaintiff.

17. That the Defendants, their agents, servants and employees, acting as agents and on the behalf of the Defendants and within their scope of employment and/or authority, Defendant Police Officers John Doe "1" thru "4" intentionally, willfully and maliciously assaulted and battered said Plaintiff, in that they had the real or apparent ability to cause imminent harmful and/or offensive bodily contact and intentionally did violent and/or menacing acts which threatened contact to the Plaintiff, and that the acts caused apprehension of contact to the Plaintiff, and the Defendants in a hostile and/or offensive manner touched and beat the Plaintiff, without his consent and with the intention of causing harmful and/or offensive bodily contact to the Plaintiff and caused such batter in and about his head, neck, face, shoulder, arms, body and limbs.

18. That by reason of the intentional assault and battery committed by the Defendants, their agents, servants and/or employees all acting within their scope

of authority and/or employment and without reasonable cause or justification, the Plaintiff sustained great bodily and mental injuries, conscious pain and suffering and that he was otherwise damaged.

19. That by reason of the aforesaid, the Plaintiff has been damaged in the sum of Ten Million (\$ 10,000,000.00) Dollars.

SECOND CAUSE OF ACTION

20. The Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs "1" through "19" with the same full force and effect as if same were more fully set forth at length herein.

21. That the Defendant The City of New York was careless and reckless in hiring and retaining as and for its employees, the aforementioned individuals; in that the Defendant's employees lacked the experience, deportment and ability to be employed by the Defendant; in that the Defendant failed to exercise due care and caution in its hiring practices, and in particular, in hiring the Defendant employees

who lacked the mental capacity and the ability to function as an employee of the Defendant The City of New York; failed to properly investigate said Defendant employees backgrounds; in that the Defendant employees lacked the maturity, sensibility and intelligence to be employed by the Defendant; in that the Defendant knew or should have known of the lack of ability, experience, deportment and maturity of said Defendant employees when Defendant hired them to be employees; and Defendant's agents, servants and/or employees were otherwise careless, negligent and reckless.

22. That the aforesaid assault and battery which resulted in the injuries to said Plaintiff's mind and body were caused wholly and solely by reason of the negligence of the Defendants, its agents, servants and/or employees and without any negligence on the part of said Plaintiff.

23. That by reason of the aforesaid, the Plaintiff was injured in mind and body, still suffers and upon information and belief, will continue to suffer great physical and mental pain, was sick, sore and lame; upon information and belief, be so incapacitated in the future, and he has expended and incurred sums of money in

an effort to cure himself of said injuries and to extricate himself from the indignities and humiliation foisted upon him by the actions of the Defendants, their agents, servants and employees; and that said Plaintiff has been otherwise damaged.

24. That by reason of the aforementioned, the Plaintiff has been damaged in the amount of Ten Million (\$ 10,000,000.00) Dollars.

THIRD CAUSE OF ACTION

25. The Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs "1" through "24" with the same full force and effect as if same were more fully set forth at length herein.

26. That the Defendants, agents, servants and employees negligently, carelessly and recklessly failed to properly train and supervise their employees, in particular the named Defendant Police Officers; in that they failed to train their employees in the proper use of weapons and hands; to control their tempers and exercise the proper deportment and temperament; to otherwise act as reasonably pru-

dent Police Officers; failed to give its Police Officers proper instructions as to their deportment, behavior and conduct as representatives of their employer; and that the Defendants, their agents, servants and employees were otherwise reckless, careless and negligent.

27. That the aforesaid assault and battery which resulted in the injuries to said Plaintiff's mind and body were caused wholly and solely by reason of the negligence of the Defendants, its agents, servants and/or employees and without any negligence on the part of said Plaintiff.

28. That by reason of the aforesaid, the Plaintiff was injured in mind and body, still suffers and upon information and belief, will continue to suffer great physical and mental pain, was sick, sore and lame; upon information and belief, be so incapacitated in the future, and he has expended and incurred sums of money in an effort to cure himself of said injuries and to extricate himself from the indignities and humiliation foisted upon him by the actions of the Defendants, their agents, servants and employees; and that said Plaintiff has been otherwise damaged.

29. That by reason of the aforementioned, the Plaintiff has been damaged in the amount of Ten Million (\$ 10,000,000.00) Dollars.

FOURTH CAUSE OF ACTION

30. The Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs "1" through "29" with the same full force and effect as if same were more fully set forth at length herein.

31. That the Defendants, its agents, servants and employees negligently, carelessly and recklessly performed their police duties in that they failed to use such care in the performance of their duties as a reasonably prudent and careful Police Officer would have used under similar circumstances in that they carelessly, recklessly and negligently assaulted and battered the Plaintiff without cause or provocation or consent to the Plaintiff; negligently struck the Plaintiff; negligently, carelessly and recklessly used the threat of physical force and actually used physical force upon the Plaintiff; and in that the Defendants, its agents, servants and employees were otherwise careless, reckless and negligent.

32. That the aforesaid assault and battery which resulted in the injuries to said Plaintiff's mind and body were caused wholly and solely by reason of the negligence of the Defendants, its agents, servants and/or employees and without any negligence on the part of said Plaintiff.

33. That by reason of the aforesaid, the Plaintiff was injured in mind and body, still suffers and upon information and belief, will continue to suffer great physical and mental pain, was sick, sore and lame; upon information and belief, be so incapacitated in the future, and he has expended and incurred sums of money in an effort to cure himself of said injuries and to extricate himself from the indignities and humiliation foisted upon him by the actions of the Defendants, their agents, servants and employees; and that said Plaintiff has been otherwise damaged.

34. That by reason of the aforementioned, the Plaintiff has been damaged in the amount of Ten Million (\$ 10,000,000.00) Dollars.

FIFTH CAUSE OF ACTION

35. The Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs "1" through "34" with the same full force and effect as if same were more fully set forth at length herein.

36. That on or about February 2nd, 2002 at approximately 12:00 - 1:30 A.M., while said Plaintiff was lawfully on the premises of the Mirage Diner located at 717 Kings Highway, Brooklyn, New York was stopped by the Defendant The City of New York, their agents, servants and employees, and more particularly Defendant Police Officers John Doe "1" thru "4" without just cause, provocation or consent of the Plaintiff and with great force and violence, repeatedly assaulted and battered said Plaintiff, including but not limited to intentionally, forcefully and fiercely striking the Plaintiff.

37. That thereafter, the Defendants, their agents, servants and employees and in particular Defendant Police Officer John Doe "1" thru "4" falsely issued the Plaintiff a "Desk Appearance Ticket" and deprived him of his rights and liberties as set forth in the Constitution of the United States and of the State of New York in that they threatened to imprison him without any conduct on the part of the

Plaintiff.

38. That the Plaintiff was and is wholly innocent.

39. That the Defendants, their agents, servants and employees acting in the performance of their employment and within the scope of their authority, gave false statements and withheld vital information before a Justice of the Court.

40. That said prosecution and criminal charges were instituted and procured by the Defendants, their agents, servants and employees in this action unlawfully and maliciously and without any reasonable or probable cause whatsoever thereof.

41. That the commencement and/or continuation of the criminal proceedings by the Defendants against the Plaintiff were without probable cause, with actual malice and were terminated in favor of the Plaintiff.

42. That by reason of the aforesaid unlawful and malicious prosecution, the Plaintiff was deprived of his liberty, was subjected to great indignity, humiliation, pain and great distress of mind and body and was held up to scorn and ridicule, was injured in his character and reputation, was prevented from attending his usual affairs, was injured in his reputation in the community and the said Plaintiff has been otherwise damaged.

43. That by reason of the aforementioned, the Plaintiff has been damaged in the amount of Ten Million (\$ 10,000,000.00) Dollars.

SIXTH CAUSE OF ACTION

44. The Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs "1" through "43" with the same full force and effect as if same were more fully set forth at length herein.

45. That on or about February 2nd, 2002 at approximately 12:00 - 1:30 A.M., while said Plaintiff was lawfully on the premises of the Mirage Diner located

at 717 Kings Highway, Brooklyn, New York was stopped by the Defendant The City of New York, their agents, servants and employees, and more particularly Defendant Police Officers John Doe "1" thru "4" without just cause, provocation or consent of the Plaintiff and with great force and violence, repeatedly assaulted and battered said Plaintiff, including but not limited to intentionally, forcefully and fiercely striking the Plaintiff.

46. That thereafter, the Defendants, their agents, servants and employees and more particularly Defendant Police Officer John Doe "1" thru "4" falsely issued the Plaintiff a "Desk Appearance Ticket" and deprived him of his rights and liberties as set forth in the Constitution of the United States and of the State of New York, in that they threatened to imprison him without any conduct on the part of the Plaintiff to so warrant, to wit:

A) in that all of the actions of the Defendants, their agents, servants and employees, were committed with the intention to cause bodily and mental injury to the Plaintiff, to arrest and restrain the Plaintiff without his consent, the Plaintiff was at all times conscious of his arrest, did not consent to the false arrest and the false arrest was not otherwise privileged;

B) the arrest was not justified by probable cause or other legal privilege, Defendants, their agents, servants and employees, acting under the color of statutes, ordinances, regulations, customs and usages of the State, City and County of New York and under the authority of their Office as Police Officers for said City, falsely charged the Plaintiff with acts violating the Penal Law although the Defendants, acting in such capacity knew that such charges were false;

C) in that the Defendants, their agents, servants and employees caused an assault and battery when they in a hostile and/or offensive manner threatened, touched and beat the Plaintiff without his consent and with the intention of causing harmful and/or offensive bodily contact to the Plaintiff, all without warrant, probable cause or any lawful cause whatsoever;

D) that the Defendants, their agents, servants and employees failed to adequately and properly hire, retain, train, supervise, discipline or any other way control the behavior or performance of the Defendants, their agents, servants and employees and in their hiring practices in the exercise of their police functions and their failure to enforce the laws of the State and City of New York is evidence of the reckless lack of cautious regard for the rights of the public including the Plaintiff and exhibited a lack of that degree of due care which prudent and

reasonable individuals would show in executing the duties of the Defendants;

E) the failure of the Defendants, their agents, servants and employees to hire, train, supervise, discipline or in any other way control the Defendants, in the exercise of their functions to enforce the laws of the State and City of New York was and is carried out willfully, wantonly, maliciously and with such reckless disregard for the consequences as to display a conscious disregard for the dangers of harm and injury to the citizens of the State and City of New York including the Plaintiff;

F) that the said prosecution and criminal charges and hearings were instituted and procured by the Defendants, their agents, servants and employees in this action unlawfully and maliciously and without any reasonable or probable cause whatsoever; that the commencement and/or continuation of the criminal proceedings by the Defendants, their agents, servants and employees against the Plaintiff was without probable cause with actual malice and was terminated in favor of the Plaintiff;

G) due to the acts of the Defendants, their agents, servants and employees herein, the failure of the City of New York to discipline and properly hire the Defendants and the continued employment of the Defendants present a clear and present danger

to the citizens of the City and State of New York;
and

H) in that the Defendants, their agents, servants and employees permitted the use of a policy and /or drafted a policy that was violative of the constitutional rights of the Plaintiff; and in that each and all of the acts of the Defendants, their agents, servants and employees alleged herein were done not as individuals but under the color and pretense of the statutes, ordinances, regulations, customs and usages of the State and City of New York, County of New York, and under the authority of their Office as Police Officers for said City and County.

47. That the Plaintiff did not commit any illegal act, either before or at the time he was falsely arrested, assaulted and battered, maliciously prosecuted and deprived of his constitutional rights as set forth in the Constitution of the United States, particularly 42 U.S.C. Section 1983 and the Constitution of the State of New York.

48. That as a direct result of the illegal actions and conduct on the part of the Defendants, their agents, servants and employees, Plaintiff was falsely arrest-

ed, assaulted and battered, maliciously prosecuted and compelled to be arraigned and appear in the Criminal Court of the City of New York, County of Kings.

49. That at all times the Defendants were employed in their respective capacities by the Defendant The City of New York and were acting under the color of their official capacity and their acts were performed under the color of the policies, statutes, ordinances, rules and regulations of the City of New York.

50. That at all times the Defendant Police Officers, separately and in concert acted under the color and pretense of law, to wit: under the color of the statutes, ordinances, regulations, customs and usages of the City of New York and the Defendants, separately and in concert, engaged in the illegal conduct here mentioned to the injury of the Plaintiff and deprived the Plaintiff of his rights, privileges and immunities secured to the Plaintiff by the First and Fourteenth Amendments to the Constitution of the United States and the laws of the United States.

51. That the Police Officers of the Defendant The City of New York and its individual members who are agents, servants and employees of said Defendant, together with persons unknown to the Plaintiff, acted under the color of law, have subjected the Plaintiff to a pattern of conduct consisting of assault and battery, false arrest and malicious prosecution and a denial of rights, privileges and immunities guaranteed to the Plaintiff and other citizens by the Constitution of the United States.

52. That this systematic pattern of conduct consists of a large number of individual acts of violence, intimidation, false arrest and malicious prosecution visited upon the Plaintiff and other citizens by members of the Police Department of Defendant The City of New York, acting in concert with persons unknown to the Plaintiff and under the color of law and said acts, while carried out under the color of law, have no justification or excuse in law and are instead illegal, improper and unrelated to any activity in which police officers may appropriately and legally engage in the course of protecting persons.

53. That although Defendants knew or should have known of the fact that this pattern of conduct was carried out by their agents, servants and employees, the Defendant The City of New York has not taken any steps or made any efforts to halt this course of conduct, to make redress to the Plaintiff injured thereby, or take any disciplinary action whatsoever against any of their employees or agents.

54. That the unlawful and illegal conduct of the Defendants, their agents, servants and employees and each of them, deprived the Plaintiff of the following rights, privileges and immunities secured to him by the Constitution of the United States and of the State of New York:

A) The right to be secure in his person and effects against unreasonable search and seizure under the Fourth and Fourteenth Amendments to the Constitution of the United States; and

B) The right of the Plaintiff not to be deprived of his life, liberty and property without due process of law, and the right to the equal protection of the laws secured by the Fourteenth Amendment to the Constitution of the United States.

55. That by reason of the aforesaid acts and patterns by the Defendants, their agents, servants and employees who conspired together to enter into a nefarious scheme to wrongfully deprive the Plaintiff and compel him to abandon his rights and privileges as provided to him in the Constitution of the United States and in the Constitution of the State of New York, and laws thereto, the Defendants, their agents, servants and employees violated 42 U.S.C. Section 1983, in that the Defendants, their agents, servants and employees acted as persons who under the color of statute, ordinance, regulation, custom or usage of the City of New York, subjected or caused to be subjected, a citizen of the United States or other persons within the jurisdiction, particularly, the Plaintiff thereof, to be deprived of his rights, privileges or immunities received by the Constitution and laws of the United States and of the State of New York; was subjected to great indignities and humiliation, and pain and distress of mind and body and was held up to scorn and ridicule, injured in his character and reputation, was prevented from attending his usual duties and was injured in his reputation in the community and the acts aforementioned were committed with the aim of injuring and damaging the Plaintiff.

56. That by reason of the aforesaid intentional assault and battery, false arrest, malicious prosecution and deprivation of rights and privileges guaranteed by the Constitution, by the Defendants, their agents, servants and employees, all acting within the scope of their authority, and without any probable or reasonable cause, the Plaintiff suffered great bodily injury in and about his head, face, shoulders, chest, body and limbs and was rendered sick, sore, lame and disabled, and among other things, he suffered conscious pain and suffering, and that he was otherwise damaged.

57. That by reason of the aforementioned, the Plaintiff requests the following relief:

A) Compensatory damages in the amount of Ten Million (\$ 10,000,000.00) Dollars;

B) Punitive damages in the amount of Ten Million (\$ 10,000,000.00) Dollars; and

C) An award of reasonable attorney's fees, costs and disbursements.

SEVENTH CAUSE OF ACTION

58. The Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs "1" through "57" with the same full force and effect as if same were more fully set forth at length herein.

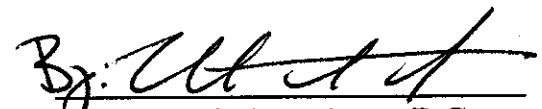
59. That by reason of the aforesaid false arrest, vicious assault and battery and malicious prosecution caused willfully by the Defendants, their agents, servants and employees, the Plaintiff was wrongfully deprived of his rights, privileges and benefits as provided to him under the Constitution of the State of New York, sustained severe, serious and upon information and belief permanent injuries to his head, face, neck, chest, body and limbs including but not limited to a fractured arm, was rendered sick, sore, lame, disabled and confined to bed and home and he was subjected to great indignities and humiliation, and pain and distress of mind and body, and was held up to scorn and ridicule, injured in his character and reputation, was prevented from attending to his usual affairs, was injured in his reputation in his community and the acts of the Defendants were committed with the aim of injuring and damaging the Plaintiff.

60. That by reason of the aforementioned, the Plaintiff has been damaged in the amount of Ten Million (\$ 10,000,000.00) Dollars.

Wherefore, the Plaintiff demands Judgment against the Defendants on Causes of Action First, Second, Third, Fourth, Fifth and Seventh each in the amount of Ten Million (\$ 10,000,000.00) Dollars; on the Sixth Cause of Action: a) Compensatory damages in the amount of Ten Million (\$ 10,000,000.00) Dollars; b) Punitive damages in the amount of Ten Million (\$ 10,000,000.00) Dollars; and c) an award of reasonable attorney's fees, costs and disbursements; together with such other and further relief as this Court may deem just and proper.

Dated: Brooklyn, New York
May 9th 2002

Yours, etc.

By: 
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